

February 23, 2023

Regional Freedom of Information Officer
U.S. EPA, Region 8 (CO, MT, ND, SD, UT, WY)
1595 Wynkoop Street
Denver, CO 80202-1129

Re: FOIA Request

Dear Sir or Madam:

I am writing on behalf of Sunnyside Gold Corporation ("SGC") to request the production of documents that are in the possession, custody, or control of the United States Environmental Protection Agency ("EPA") pursuant to the Freedom of Information Act, 5 U.S.C. § 552 *et seq.*

Pursuant to this request, please provide us with copies of all records in the care, custody, or control of the U.S. EPA, Region 8 (CO, MT, ND, SD, UT, WY) that relate or pertain to the following request:

1. A copy of the signed settlement agreements between the US and the Plaintiffs noted in the attached exhibit related to *Allen et al. v. US*, case no. 1:18-cv-744, or *McDaniel et al. v. US*, case no. 1:17-cv-710.
2. Any General Notice Letters or 104(e) Information Requests sent to any party after May 1, 2022, related to the Bonita Peak Mining District, including any documents or records of any type produced in response to the request(s). The Bonita Peak Mining District refers to the Superfund Site reflected on EPA's website at: <https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0802497>
3. Any Administrative Orders on Consent, administrative settlements, or settlements, in addition to those requested in section (1), the US has entered into after May 1, 2022 related to the Bonita Peak Mining District.

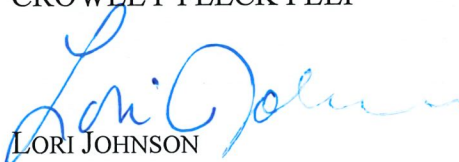
If any part of the records requested are not produced based on a claim of privilege or other disclosure exemption, please prepare a privilege log and/or exemption log describing, at a

minimum: (i) the type of record withheld; (ii) the date(s) of creation of the record; (iii) the subject of the record; (iv) the author and all recipients of the record; (v) the names of the people, entities and locations referenced in the record; and (vi) a detailed description of the basis upon which EPA is withholding the record and which specific statutory and regulatory provisions support the withholding. To the extent any responsive documents are withheld based upon a claim of privilege or exemption, please produce redacted copies of all non-privileged or non-exempt materials contained within such documents.

If you have any questions or concerns regarding the above, please contact the undersigned at (406) 522-4565, or ljohnson@crowleyfleck.com. Additionally, if you anticipate that responding to this request will incur costs in excess of \$500, please contact us prior to completing the request.

Sincerely,

CROWLEY FLECK PLLP


LORI JOHNSON
PARALEGAL

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

*In re: Gold King Mine Release in San Juan County,
Colorado on August 5, 2015*

This Document Relates to Cases:
Allen v. United States, 1:18-cv-744
McDaniel v. United States, 1:17-cv-710

No. 1:18-md-02824-WJ

**JOINT NOTICE OF SETTLEMENTS AND MOTION TO EXTEND STAYS OF
LITIGATION BETWEEN THE UNITED STATES AND THE ALLEN PLAINTIFFS AND
THE UNITED STATES AND THE MCDANIEL PLAINTIFFS**

On October 17, 2022, the Court issued an Order Granting the Joint Motion for a Stay of litigation between the United States and the *Allen* Plaintiffs and the United States and the *McDaniel* Plaintiffs. *See* Doc. 1834. This Order granted a stay of the individual plaintiffs' litigation against the United States through January 17, 2023. *Id.* at 7. The Court later extended the stay through February 17, 2023. *See* Doc. 1871. The United States, the *Allen* Plaintiffs, and the *McDaniel* Plaintiffs (collectively, the "Moving Parties") now report that each proposed settlement agreement was approved and signed by all parties to the settlement agreement. For the reasons explained below, the Moving Parties hereby jointly move for a further stay of litigation pending action to occur pursuant to each settlement agreement.

In support of this motion, the Moving Parties state as follows:

1. On February 16, 2023, the United States signed an out-of-court settlement agreement with the *Allen* Plaintiffs that resolves all claims between them in this litigation. The settlement provides that the *Allen* Plaintiffs will subsequently file stipulations of voluntary dismissal within 7 days of receiving the specified payment from the United States. The parties

expect the payment and dismissal to occur within thirty days. Accordingly, the United States and the *Allen* Plaintiffs respectfully request that the Court enter a stay of all further litigation as between the *Allen* Plaintiffs and the United States, to continue pending the further actions contemplated by their settlement agreement.

2. On February 16, 2022, the United States signed an out-of-court settlement agreement with the *McDaniel* Plaintiffs that resolves all claims between them in this litigation. The settlement provides that the *McDaniel* Plaintiffs will subsequently file stipulations of voluntary dismissal within 7 days of receiving the specified payment from the United States. The parties expect the payment and dismissal to occur within thirty days. Accordingly, the United States and the *McDaniel* Plaintiffs respectfully request that the Court enter a stay of all further litigation as between the *McDaniel* Plaintiffs and the United States, to continue pending the further actions contemplated by their settlement agreement.

3. Pursuant to Local Rule 7.1(a), the Moving Parties have conferred with the other parties in this multi-district litigation. The Navajo Nation, New Mexico, Weston Solutions, Environmental Restoration, and Sunnyside Gold do not object to this motion. Harrison Western, the Kinross Defendants, and Utah did not state a position.

DATED: February 17, 2023

Respectfully submitted,

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WILL FERGUSON & ASSOCIATES

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Counsel for the McDaniel Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on February 17, 2023, I electronically filed the foregoing motion to all parties using the Electronic Case Filing (“ECF”) system of this Court. The ECF system will send a “Notice of Electronic Filing” to the attorneys of record.

/s/Caroline W. Stanton
Caroline W. Stanton